

DETAINER COURT PROJECT PROPOSAL

for the Knox County General Sessions Court

This is a proposal of the Knoxville Legal Aid Society, Inc., for implementing a legal assistance project in the Knox County General Sessions Court, Detainer Division.

Background - The primary source of the law which governs the relationship between landlords and tenants in Knox County is the Uniform Residential Landlord and Tenant Act, TCA §§ 66-28-101, et seq. While the Knox County Circuit Court and the Knox County General Sessions Court have concurrent jurisdiction, the bulk of the responsibility for adjudicating disputes between landlords and tenants falls to the General Sessions Court, Division Five. Detainer cases are scheduled on Tuesdays on the third floor of the old Knox County Courthouse. The Civil Division of the General Sessions Court office is also located on that floor. The five General Sessions Court judges - Tony Stansberry, Brenda Waggoner, Bob McGee, Geoff Emory, and Chuck Cerny, - rotate between the five sessions courts on a weekly basis (in the order listed.). Therefore, a given judge will hear detainer cases once every five weeks.

Mediation - The Community Mediation Center - At least one team (usually two) of mediators is present on Tuesdays to mediate disputes between willing landlords and tenants. There is a small room outside the courtroom for mediation. On normal days, no more than two or three lawsuits will be mediated. If there is more than one team available for mediation, the second team will use a room in the City and County Building. Robert Swan is the Court Mediation Director and the Judicial Clerk for the General Sessions Court. The **University of Tennessee Mediation Clinic** may also provide student mediators on an irregular basis, depending on UT's scheduling and the availability of students. Ann Barker is the director of the UT Mediation Clinic.

Problem: Crowded docket: Approximately 4,544 detainer cases were scheduled in the Fifth Sessions Court in the year 2000. Over the 46 weeks in which detainer cases are heard, this averages to 99 cases on the docket per week. The courtroom is standing room only, and there is almost always an overflow of people out into the hall. Court is scheduled to begin at 9:00 a.m. At 9:00 a.m., a representative of the Community Mediation Center presents a description of the process of mediation and offers landlords and tenants an opportunity to mediate their cases. If there is a mediation team available, the judge will often direct the parties to mediation where neither party is represented by an attorney.

Problem: Landlords' and Tenants' Lack of Information: There is a great lack of information about the respective rights of landlords and tenants and a mountain of misinformation concerning evictions among the general population. A great majority of the tenant defendants in detainer actions are unaware of their rights under the Uniform Residential Landlord and Tenant Act. Few tenants have even heard of the Act. Even more surprising is that many landlords are also unaware of the legal process for evicting

tenants. Some landlords, aware of the ignorance of their tenants, may choose to ignore the legal process in order to evict a tenant quickly.

We believe that our legal system works best when all the parties understand the process, know their rights under the law, and abide by the law. An important component of the mission of the Knoxville Legal Aid Society in improving housing conditions in our community is the education of the community - both landlords and tenants. Our experience has been that informed landlords are much more likely to respect the rights of their tenants and follow the law. The court system can be intimidating and confusing to defendants. They are about to lose their homes and may be unaware that there is anything they can do about it or that resources are available to assist them in finding alternative housing. Low income families are generally less informed of their rights and are especially at risk of becoming homeless.

The General Sessions Court Judges routinely remind the litigants that they cannot give legal advice to the parties. Judges will often inquire if the parties wish to consult a lawyer, and if so, a judge may grant a continuance in order for the parties to seek the advice of an attorney. Some of these defendants find their way to Knoxville Legal Aid Society and the UT Legal Clinic. Many slip through the cracks.

Proposal: The Detainer Court Project: KLAS proposes to develop a project to address some of the problems and concerns outlined above. KLAS has been an important participant in the planning and development of the Fourth Circuit Court's Thursday Order of Protection Day, and will draw upon those experiences in implementing the Detainer Court Project.

1. Information: KLAS proposes to set up a display and information table in the waiting area near the steps on the third floor of the old Courthouse. Printed material on the Uniform Residential Landlord and Tenant Act, tenants and landlords rights and responsibilities, community resources for help with finding housing (subsidized and non-subsidized) will be available to both landlords and tenants. Other informational pamphlets developed by KLAS will be available - Examples: TennCare, Families First, Elder Care, Domestic Violence, Consumer Protection, Representing Yourself in General Sessions Court, How to File a List of Exemptions, etc.

2. Staffing/Screening: At least two attorneys - one or more KLAS staff attorneys and a pro bono volunteer attorney - will be available for consultation with persons who meet KLAS's income and asset guidelines. Persons not meeting KLAS guidelines will be provided information on finding a private attorney through the Knoxville Bar Association's Lawyer Referral Association. Other paralegals and volunteers will assist in determining eligibility for KLAS services (including checking conflicts) and will provide referrals to housing agencies such as KCDC.

3. Referrals/Representation/Assistance: Depending on the nature of the case, the parties may be referred to **Community Mediation Center**, the **University of Tennessee Legal Clinic**, the private bar, or may be accepted for representation by KLAS

and given brief advice or service on the merits of the case. On more complex cases, KLAS may accept a case for investigation and request a continuance in order to do an appropriate investigation, subpoena witnesses, etc. Some cases may be placed through the **KLAS Pro Bono Project**. On simple cases, attorneys may assist clients immediately in reaching agreements, thereby saving court time in hearing individual cases tried by uninformed parties. There is an area on the third floor near the elevators on the west side of the building which can be used for more private discussions between clients and attorneys, as well as for negotiations.

4. Benefits: The proposed legal assistance project will aid in a smoother, more efficient administration of justice, while providing education and assistance to tenants and landlord alike. The result will benefit both the courts and the citizens of Knox County.

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